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13 UNITED STATES DISTRICT COURT  
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
15 SOUTHERN DIVISION

16 BRIAN G. HOLTKAMP,  
17 Plaintiff,

18 v.

19 MOZILLA FOUNDATION,  
20 Defendant.

Case No. 8:24-cv-01285-JWH-  
ADSx

**[PROPOSED] ORDER  
GRANTING MOZILLA  
FOUNDATION'S *EX PARTE*  
APPLICATION FOR ORDER  
CONTINUING RULE 16(B)  
SCHEDULING CONFERENCE**

Date: September 27, 2024  
Time: 09:00 AM  
Location: Courtroom 9D of  
the Ronald Reagan Federal  
Building and U.S.  
Courthouse,  
411 W. 4th Street, Santa Ana,  
California

1 Having considered Defendant Mozilla Foundation's *Ex Parte* Application  
2 For Order Continuing Rule 16(b) Scheduling Conference, the Court hereby rules as  
3 follows:

4 Ex Parte relief is appropriate and necessary, because a regularly noticed  
5 motion could not be heard until after the current deadlines in the Court's  
6 Scheduling Order (Rule 26(f) conference to be conducted August 2, 2024; Joint  
7 Rule 26(f) Report to be filed August 9, 2024; Rule 12(b) Scheduling Conference to  
8 be held August 23, 2024).

9 The Court finds that counsel for Mozilla Foundation has provided oral notice  
10 to Plaintiff via voicemail, and written notice via email, of the date and substance of  
11 its *Ex Parte* Application. The interest of justice requires that Mozilla Foundation's  
12 Ex Parte Application be held without further notice, pursuant to Local Rule 7-19.2,  
13 because Plaintiff will not be prejudiced by postponing the Rule 26(f) conference  
14 and report and the Rule 16(b) Scheduling Conference until Mozilla Foundation's  
15 Motion to Dismiss is decided. Conversely, Mozilla Foundation will be unduly  
16 prejudiced, as it is likely to prevail on its Motion to Dismiss based on its argument  
17 that the Complaint is frivolous. It is therefore unnecessary to subject Mozilla  
18 Foundation to the burdens of participating in the Rule 26(f) conference and report,  
19 and the Rule 16(b) scheduling conference, until after its Motion to Dismiss is  
20 decided. It is the Court's policy to provide persons "subjected to vexatious  
21 litigation with security against the costs of defending against such litigation and  
22 appropriate orders to control such litigation." Local Rule 83-8.1.

23 Accordingly, considering the prior two dismissals of Plaintiff's similar  
24 complaints due to frivolousness, and the likelihood that Mozilla Foundation will  
25 prevail on its Motion to Dismiss, the Court finds, pursuant to Fed. R. Civ. P.  
26 16(b)(2), that there is good cause to delay entry of a Scheduling Order, and to  
27 postpone until after the Motion to Dismiss is decided a Rule 16(b) Scheduling  
28 Conference, and the parties' Rule 26(f) conference and report.

1 For the foregoing reasons, Defendant Mozilla Foundation's *Ex Parte*  
2 Application For Order Continuing Rule 16(b) Scheduling Conference is  
3 GRANTED. The Court hereby POSTPONES the Parties' Fed. R. Civ. P. 26(f)  
4 Conference; the deadline to file the Parties' Joint Fed. R. Civ. P. 26(f) Report; and  
5 the Rule 16(b) Scheduling Conference, pending further order of the Court.

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7 **IT IS SO ORDERED.**

8 Dated: \_\_\_\_\_

9 \_\_\_\_\_  
10 John W. Holcomb  
11 UNITED STATES DISTRICT JUDGE  
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